

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	4:03CR3100
	)	
v.	)	
	)	
TIMOTHY S. DEGARMO,	)	TENTATIVE FINDINGS ON OBJECTION
	)	TO PRESENTENCE INVESTIGATION
Defendant.	)	REPORT AND REQUEST FOR
	)	EVIDENTIARY HEARING

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As to Objection No. 1, the defendant has objected to paragraphs 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, and 37, regarding weight of methamphetamine because the weight determination was not made by a jury and was not made by proof beyond a reasonable doubt..

As to Objection No. 2, the defendant also objects to paragraphs 20, 23, 24, 26, 28 and 45, because they attribute possession of a firearm used in the commission of the offense against the defendant but, the relevant facts have not been determined by a jury beyond a reasonable doubt.

As to Objection No. 3, the defendant objects to paragraphs 67, 68, 69, 70 and 72, asserting that the defendant is entitled to a determination by a jury with proof beyond a reasonable doubt as to the existence and probative weight to be given to his criminal history.

As to Objection No. 4, the defendant objects that the Presentence Investigation Report incorrectly assesses two points for a conviction which is related to the conviction described in paragraph 69.

As to Objection No. 5, the objection is that the conviction in paragraph 67 cannot be counted because it was more than ten years between the conviction and the beginning of the defendant's participation in the conspiracy.

An evidentiary hearing is needed and will be had immediately preceding the sentencing.

Accordingly, I tentatively find that the Presentence Investigation Report is accurate, except for those paragraphs to which objection by the defendant has been made.

Objection to these tentative findings may be made at the evidentiary hearing, but no evidence relating to them shall be received and none has been requested. No persons have been

identified as ones expected to be called to testify. Identification is required by the Order on Sentencing Schedule dated May 20, 2005, filing 129.

Dated August 8, 2005.

BY THE COURT

s/ Warren K. Urbom  
United States Senior District Judge